

FILED

DEC 19 2024

Pro Se 15 (Rev. 12/16) Complaint for Violation of Civil Rights (Non-Prisoner)

Clerk, U. S. District Court
Eastern District of Tennessee
At Chattanooga

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____ Division

Hannah Fairbanks
c/o Patricia Loomis

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

TennCare, Tennessee Department of
Finance and Administration,
Stephen Smith, Director of TennCare

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Case No.

1-24-cv-394

(to be filled in by the Clerk's Office)

Jury Trial: (check one) ☐ Yes ☐ No

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Non-Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name
Address

Hannah Fairbanks

6004 Co Rd 443

Athens

City

TN

State

37303

Zip Code

County
Telephone Number
E-Mail Address

McMinn County

423 435 6977

Trishwomac@gmail.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name
Job or Title (if known)
Address

TennCare Department of
Finance and Administration
312 Rosa L Parks Ave
Nashville TN 37243

City

State

Zip Code

County
Telephone Number
E-Mail Address (if known)

Davidson County

423-615-741-0320

☐ Individual capacity ☒ Official capacity

Defendant No. 2

Name
Job or Title (if known)
Address

Stephen Smith
Director of TennCare
310 Great Circle Road
Nashville TN 37243

City

State

Zip Code

County
Telephone Number
E-Mail Address (if known)

Davidson County

855-259-0701

☐ Individual capacity ☒ Official capacity

b. If the defendant is a corporation

The defendant, (name) _____, is incorporated under the laws of the State of (name) _____, and has its principal place of business in the State of (name) _____. Or is incorporated under the laws of (foreign nation) _____, and has its principal place of business in (name) _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because (explain):

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the injunction or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. Where did the events giving rise to your claim(s) occur?

Hannah had been receiving 126 hr wk Private duty Nursing Care in her home since 2018, Prior was Receiving 24/7 Private duty Care, On 9-18-24 Temcare decided to Terminate the Private duty nursing Service and Replace with intermediate home health services, but only with a doctors order.

B. What date and approximate time did the events giving rise to your claim(s) occur?

On 9/25/24 Blue Care TN cares MCO wrote a letter Stopping Payment for 126 hr PDU Care in her home Because she was 21, and stated Private duty isn't covered for anyone 21 or older, Blue Care Offered an alternative Choices group for Hannah. Yet Blue Care / Temcare has not evaluated Hannah's needs since 2015. This determination was made on charts, graphs, and caregiver assessments only.

Defendant No. 1

Name
Job or Title *(if known)*
Street Address
City and County
State and Zip Code
Telephone Number
E-mail Address *(if known)*

TennCare Dep of Finance and Administration
312 ROSA L PARKS Ave
Nashville Davidson County
TN 37243
423-615-741-0320

Defendant No. 2

Name
Job or Title *(if known)*
Street Address
City and County
State and Zip Code
Telephone Number
E-mail Address *(if known)*

Stephen Smith
Director of TennCare
310 Great Circle Road
Nashville Davidson County
TN 37243
855-259-0701

Defendant No. 3

Name
Job or Title *(if known)*
Street Address
City and County
State and Zip Code
Telephone Number
E-mail Address *(if known)*

N/A

Defendant No. 4

Name
Job or Title *(if known)*
Street Address
City and County
State and Zip Code
Telephone Number
E-mail Address *(if known)*

N/A

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? *(check all that apply)*

☒ Federal question

☐ Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

ADA Title II
Section 504 of Rehabilitation Act / Failure to allow due Process

B. If the Basis for Jurisdiction Is Diversity of Citizenship**1. The Plaintiff(s)****a. If the plaintiff is an individual**

The plaintiff, *(name)* _____, is a citizen of the
State of *(name)* _____.

b. If the plaintiff is a corporation

The plaintiff, *(name)* _____, is incorporated
under the laws of the State of *(name)* _____,
and has its principal place of business in the State of *(name)* _____.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)**a. If the defendant is an individual**

The defendant, *(name)* _____, is a citizen of
the State of *(name)* _____. Or is a citizen of
(foreign nation) _____.

- C. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

Hannah's own Primary Care Provider Recommended Private duty Nursing. Because the Proposed Intermediate care 27 hours 8 hours 3 days week, Recommended by Bluecare, Cannot facilitate the needs she has, Blue Care Could not get her PCP, to sign an order for the lesser approved Services that they Recommended, not only did Bluecare TennCare cut her care they also initiated Aps, because Hannah's doctor didn't sign an order for the lesser care, which could only be provided with a doctor's previously approved from 9-2-24 - 10-31-24.

IV. **Irreparable Injury**

Explain why monetary damages at a later time would not adequately compensate you for the injuries you sustained, are sustaining, or will sustain as a result of the events described above, or why such compensation could not be measured.

Hannah is totally disabled dependent 100% on others for her care, there is no logical way anyone in Hannah's position could live on her own, or with help that Choices offered, Hannah still requires a full time caregiver to stay at home, this isn't covered under TennCare, there is no logical Choices Program even in the home that Hannah could participate in, institutionalized care is the only option TennCare was willing to pay for, besides the intermediate care covered for most adults.

V. **Relief**

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

Relief being sought here is the Re-enstatement of the 126hr Private duty care ordered by her doctor, An evaluation of Hannah's medical needs need to be done, not a caregiver assessment, which is All TennCare has done since 2015, Common Knowledge states if a person cannot do something then the Reporter can report that person was unable to answer, or do things however.

TennCare only uses Refuses to answer, on assessments, which left Hannah without adequate care, The only option for Hannah is institutionalization, if TennCare Refuses her Private duty care, there is no reason why Hannah can't have accommodations to remain in her own home, without paying out of pocket for caregiver or services not provided, furthermore, I appealed,

The Private duty Reduction, And TennCare refused to allow me due Process, to argue the case under administrative Hearing Procedures, they claimed no factual dispute, however Being a TennCare member Hannah has a right to defend herself when a claim has been denied, Fairhearings are a right which in this case was denied, by TennCare, How would TennCare ever be held responsible for there actions if there are no policies to ensure the rules of Law are followed, The 126^{hr}/r Private duty Care should be re-enstated, as of right now Hannah has zero Services in the home, the Care Recommended by TennCare doesnt have her doctors approval, so at the Present time Hannah is Recieving No home Services, and I agree with her doctor, his opinion that the lesser Service doesnt benefit this Particular member is Very Clearly Stated.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 12-19-24

Signature of Plaintiff

Printed Name of Plaintiff

Patricia Womac % Hannah Fairbanks
PATRICIA WOMAC % HANNAH FAIRBANKS.

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address